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Dated: June 27, 2006

Signature: *Suzanne Mack*

(Suzanne Mack)

Docket No.: MBI-0058CIP
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Heard et al.

Application No.: 10/714,887

Filed: November 13, 2003

Art Unit: 1638

For: PLANT TRANSCRIPTIONAL REGULATORS
OF DROUGHT STRESS

Examiner: David Kruse

**PETITION TO ACCEPT AN UNINTENTIONALLY DELAYED CLAIM FOR BENEFIT
UNDER 37 C.F.R. § 1.78(a)(3) AND C.F.R. § 1.78(a)(6)**

Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Madam or Sir:

Applicants respectfully request the acceptance of the unintentionally delayed claim of benefit set forth in the Supplemental Application Data Sheet, included herewith.

In accordance with 37 C.F.R. 1.78(a)(3) and 1.78(a)(6), this petition to accept an unintentional delayed claim for benefit is being filed with the following:

A) the reference required by 35 U.S.C. §§ 120, 119(e) and 37 CFR 1.78(a)(2), 1.78(a)(5), which is set forth in the Supplemental Application Data Sheet and the amendment to the Specification, filed herewith;

B) a surcharge under 37 C.F.R. 1.17(t), which is set forth in the attached fee transmittal form; and

C) a statement that the entire delay between the date the claim was due under 37 C.F.R. 1.78(a)(2) or 1.78(a)(5) and the date the claim was filed was unintentional, which is set forth below.

Statement of Facts

1. Applicants filed the instant application on November 13, 2003 with a Specification containing the following first paragraph:

This application claims priority from: (a) U.S. Application No. 10/412,699, filed April 10, 2003, which in turn claims priority from U.S. Non-provisional Application No. 09/506,720, filed February 17, 2000, which in turn claims priority from U.S. Provisional Application No. 60/135,134, filed May 20, 1999; U.S. Non-provisional Application No. 09/394,519, filed September 13, 1999; U.S. Non-provisional Application No. 09/533,392, filed March 22, 2000; U.S. Non-provisional Application No. 09/533,029, filed March 22, 2000; U.S. Non-provisional Application No. 09/532,591, filed March 22, 2000; U.S. Non-provisional Application No. 09/533,030, filed March 22, 2000, which in turn claims priority from U.S. Provisional Application No. 60/125,814, filed March 23, 1999; U.S. Non-provisional Application 09/713,994, filed November 16, 2000, which in turn claims priority from U.S. Provisional Application No. 60/166,228, filed November 17, 1999, U.S. Provisional Application No. 60/197,899, filed April 17, 2000, and U.S. Provisional Application No. 60/227,439, filed August 22, 2000; (b) U.S. Non-provisional Application No. 10/456,882, filed June 6, 2003; (c) U.S. Patent Application No. 09/810,836, filed March 16, 2001; (d) U.S. Non-provisional Application No. 10/421,138, filed April 23, 2003; (e) U.S. Non-provisional Application No. 09/823,676, filed March 30, 2001; (f) U.S. Non-provisional Application No. 09/996,140, filed November 26, 2001; (g) U.S. Non-provisional Application No. 09/934,455, filed August 22, 2001; (h) U.S. Non-provisional Application No. 10/112,887, filed March 18, 2002; (i) U.S. Non-provisional Application No. 10/286,264, filed November 1, 2002; (j) U.S. Non-provisional Application No. 10/225,066, filed August 9, 2002; (k) U.S. Non-provisional Application No. 10/225,067, filed August 9, 2002; (l) U.S. Non-provisional Application No. 10/225,068, filed August 9, 2002; which claims priority from U.S. Provisional Application No. 60/310,847, filed August 9, 2001, U.S. Provisional Application No. 60/338,692, filed December 11, 2001, and from U.S. Provisional Application No. 60/336,049, filed November 19, 2001; (m) U.S. Non-

provisional Application No. 10/374,780, filed February 25, 2003, which claims priority from U.S. Non-provisional Application No. 09/837,944, filed April 18, 2001, and U.S. Non-provisional Application No. 10/171,468, filed June 14, 2002; and (n) U.S. Non-provisional Application 10/666,642, filed September 18, 2003, which claims priority from U.S. Provisional Application No. 60/434,166, filed December 17, 2002, U.S. Provisional Application No. 60/411,837, filed September 18, 2002, and U.S. Provisional Application No. 60/465,809, filed April 24, 2003. The entire contents of all of these applications are hereby incorporated by reference.

2. The Transmittal Letter of November 13, 2003 accompanying the instant application indicated in item 18 that the instant application is a continuation-in-part and referenced an addendum that contained a list of 34 prior applications. This list of prior applications was identical to those presented in the first paragraph of the Specification as filed.
3. The Application Data Sheet accompanying the instant application as filed also contained a list of 34 prior applications in the Domestic Priority Information section. This list of prior applications was identical to those presented in the first paragraph of the Specification.
4. The first paragraph in the Specification failed to provide the specific relationships between the instant application and prior applications. The list contained in the addendum to the Transmittal Letter of November 13, 2003 did provide specific relationships between the instant application and prior applications; however, in several instances the relationships set forth were inaccurate. Similarly, the Domestic Priority Information section of the Application Data Sheet set forth specific relationships between prior applications; however, in several instances the relationships set forth were inaccurate.
5. The direct claim to priority for Application Nos. 09/394,519, 09/506,720, 09/533,030, 09/533,392, and 09/532,591 did not comply with the requirements of 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) in that they were not copending with priority Application No. 10/412,699 as set forth in the chain of priority applications on the date the instant application was filed. However, divisional applications for each of the above applications were copending at the time the instant application was filed, and each divisional application contained a proper

claim of benefit to the corresponding parent application. More specifically, Application No. 10/295,403, filed November 15, 2002, contained a proper claim of benefit to parent application 09/394,519; Application No. 10/302,267, filed November 22, 2002 contained a proper claim of benefit to parent application 09/506,720; Application No. 10/286,264, filed November 1, 2002, contained a proper claim of benefit to 09/533,030; Application No. 10/278,173, filed October 21, 2002, claimed a proper claim of benefit to parent Application No. 09/533,392; and, Application No. 10/278,536, filed October 22, 2002, claimed a proper claim of benefit to parent Application No. 09/532,591. The instant application now claims the benefit of all of the above-listed applications as priority applications.

6. The priority claims made to prior Application Nos. 09/837,944 and 10/171,468 in the Specification, Transmittal Letter/Addendum and/or Application Data Sheet did not comply with the requirements of 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) in that they were not copending with prior application 10/374,780. Application Nos. 09/837,944 and 10/171,468 were copending, however, with Application Nos. 10/225,066, 10/225,067 and 10/225,068, all of which were claimed as priority documents in the instant application as originally filed.
7. The priority claims made to multiple prior applications in a chain of prior applications, both provisional and nonprovisional, in the Specification and/or the Transmittal Letter are not in accordance with MPEP 201.11(C) in that the appropriate specific references were not made for the entire chain of prior applications.
8. To date, the instant application has not been substantively examined by the USPTO.

Remarks to the Petition

Applicants believe this Petition to Accept an Unintentionally Delayed Claim for Benefit under 35 U.S.C. § 120 and 35 U.S.C. § 119(e) satisfies the requirements of 37 CFR 1.78(a)(3) and 37 CFR 1.78(a)(6), respectively. Applicants hereby petition to accept the unintentionally delayed claims for benefit, as detailed in the Supplemental Application Data Sheet, submitted herewith.

The instant application was filed after November 29, 2000. The period specified in 37 CFR 1.78(a)(2)(ii) or 37 CFR 1.78(a)(5)(ii) has expired for each unintentionally delayed claim for benefit sought, as follows:

1. 60/101,349, filed September 22, 1998: period expired March 13, 2004
2. 60/103,312, filed October 6, 1998: period expired March 13, 2004
3. 60/108,734, filed November 17, 1998: period expired March 13, 2004
4. 60/113,409, filed December 22, 1998: period expired March 13, 2004
5. 60/116,841, filed January 22, 1999: period expired March 13, 2004
6. 60/120,880, filed February 18, 1999: period expired March 13, 2004
7. 60/121,037, filed February 22, 1999: period expired March 13, 2004
8. 60/124,278, filed March 11, 1999: period expired March 13, 2004
9. 60/125,814, filed March 23, 1999: period expired March 13, 2004
10. 60/129,450, filed April 15, 1999: period expired March 13, 2004
11. 60/135,134, filed May 20, 1999: period expired March 13, 2004
12. 60/144,153, filed July 15, 1999: period expired March 13, 2004
13. 60/161,143, filed October 22, 1999: period expired March 13, 2004
14. 60/162,656, filed November 1, 1999: period expired March 13, 2004
15. 60/166,228, filed November 17, 1999: period expired March 13, 2004
16. 60/197,899, filed April 17, 2000: period expired March 13, 2004
17. 60/227,439, filed August 22, 2000: period expired March 13, 2004
18. 60/310,847, filed August 9, 2001: period expired March 13, 2004
19. 60/336,049, filed November 19, 2001: period expired March 13, 2004
20. 60/338,692, filed December 11, 2001: period expired March 13, 2004
21. 09/394,519, filed September 13, 1999: period expired March 13, 2004

22. 09/489,376, filed January 21, 2000: period expired March 13, 2004
23. 09/506,720, filed February 17, 2000: period expired March 13, 2004
24. 09/532,591, filed March 22, 2000: period expired March 13, 2004
25. 09/533,029, filed March 22, 2000: period expired March 13, 2004
26. 09/533,030, filed March 22, 2000: period expired March 13, 2004
27. 09/533,392, filed March 22, 2000: period expired March 13, 2004
28. 09/713,994, filed November 16, 2000: period expired March 13, 2004
29. 09/819,142, filed March 27, 2001: period expired March 13, 2004
30. 09/837,944, filed April 18, 2001: period expired March 13, 2004
31. 09/934,455, filed August 22, 2001: period expired March 13, 2004
32. 09/958,131, filed January 30, 2002: period expired March 13, 2004
33. 10/171,468, filed June 14, 2002: period expired March 13, 2004
34. 10/225,066, filed August 9, 2002: period expired March 13, 2004
35. 10/225,067, filed August 9, 2002: period expired March 13, 2004
36. 10/225,068, filed August 9, 2002: period expired March 13, 2004
37. 10/278,173, filed October 21, 2002: period expired March 13, 2004
38. 10/278,536, filed October 22, 2002: period expired March 13, 2004
39. 10/286,264, filed November 1, 2002: period expired March 13, 2004
40. 10/295,403, filed November 15, 2002: period expired March 15, 2004
41. 10/302,267, filed November 22, 2002: period expired March 22, 2004
42. 10/374,780, filed February 25, 2003: period expired June 25, 2004
43. 10/412,699, filed April 10, 2003: period expired August 10, 2004
44. 10/669,824, filed September 23, 2003: period expired January 23, 2005
45. 10/675,852, filed September 30, 2003: period expired January 30, 2005

Therefore, the instant petition is made after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii) or 37 CFR 1.78(a)(5)(ii), with respect to the delayed benefit claims.

The instant petition is accompanied by a Supplemental Application Data Sheet setting forth the reference required by 35 U.S.C. §§ 119(e) or 120 and 37 CFR 1.78(a)(2)(i) or 1.78(a)(5)(i). The

instant petition is also accompanied by an Amendment under 37 CFR 1.121 setting forth the reference required by 35 U.S.C. §§ 119(e) or 120 and 37 CFR 1.78(a)(2)(i) or 1.78(a)(5)(i). A Request for Corrected Filing Receipt is also submitted, herewith.

The instant petition is accompanied by the surcharge of \$1,370.00, set forth in 37 CFR 1.17(t).

In accordance with 37 CFR 1.78(a)(6), the instant petition is being filed during the pendency of the instant application.

The instant petition contains, below, a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) or 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional.

Therefore, Applicants respectfully request that this Petition to Accept an Unintentionally Delayed Claim for Benefit, made under 37 CFR 1.78(a)(3) and 1.78(a)(6), be accepted and that the list of domestic priority data for the instant application be changed to reflect the priority information provided in the Supplemental Application Data Sheet, submitted herewith.

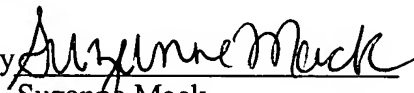
The undersigned hereby states that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2) or 37 CFR 1.78(a)(5) and the date the claim was filed was unintentional.

In the unlikely event that the transmittal letter is separated from this document and/or the Patent Office determines that an extension and/or other relief is required, Applicants petition for any

required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 50-1025** referencing docket no. **MBI-0058CIP**.

Dated: June 27, 2006

Respectfully submitted,

By 
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